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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

THE TRIAL LAWYERS COLLEGE, a nonprofit corporation,

Plaintiff.

vs.

GERRY SPENCE TRIAL INSTITUTE, a nonprofit corporation and GERALD L. SPENCE, JOHN ZELBST, REX PARRIS, JOSEPH H. LOW, KENT SPENCE, JOHN JOYCE, and DANIEL AMBROSE, individuals,

Defendants,

GERRY SPENCE TRIAL INSTITUTE, a nonprofit corporation and GERALD L. SPENCE, JOHN ZELBST, REX PARRIS, JOSEPH H. LOW, KENT SPENCE

Counterclaim Plaintiffs

vs.

THE TRIAL LAWYERS COLLEGE, JOHN SLOAN, JAMES R. CLARY, Jr., MILTON GRIMES, DANA COLE, MAREN CHALOUPKA, ANNE VALENTINE,

Counterclaim and Third-Party Claim Defendants.

Civil Action No. 1:20-CV-00080-ABJ

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**SPENCE GROUP'S RESPONSE TO MOTION TO DISMISS AND NOTICE OF  
INTENT TO AMEND COUNTERCLAIMS AND THIRD PARTY CLAIMS**

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Defendants Gerry Spence Trial Institute (f/k/a Gerry Spence's Trial Lawyers College at Thunderhead Ranch), Gerald L. Spence, John Zelbst, Rex Parris, Joseph H. Low, and Kent Spence (collectively "Spence Defendants" or "Spence Group"), through their undersigned counsel, hereby provide notice that, in response to the Motion To Dismiss Counterclaims And Third Party Claims (ECF no. 103) filed by the Counterclaim Defendants ("the Motion"), in lieu of filing an opposition brief the Spence Group intends to file Amended Counterclaims and Third Party Claims on or before Dec. 2, 2020 in accordance with Fed. R. Civ. P. 15(a)(1)(B). The filing of the amended pleading will moot the Motion. *See, e.g., Davis v. TXO Prod. Corp.*, 929 F.2d 1515, 1517 (10th Cir. 1991) ("It is well established that an amended complaint ordinarily supersedes the original and renders it of no legal effect."); *Leveraged Innovations LLC v. BATS Exch., Inc.*, 2014 WL 11516547, at \*1 (D. Kan. May 29, 2014) (holding motion to dismiss counterclaims was moot upon filing of subsequently amended counterclaims).

DATED: November 25, 2020.

/s/ Timothy P. Getzoff

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